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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,549	01/18/2001	John D. Martin	KCOS116809	9921

26389 7590 09/13/2002

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/766,549

Applicant(s)

MARTIN ET AL

Examiner

Jeffrey J. Restifo

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-34 and 36 is/are allowed.
- 6) ☒ Claim(s) 1-26, 28, 29 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgments

1. Acknowledgment is made of the amendment and extension of time filed 6/21/02.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Finiel(6,328,328).

With respect to claims 1-6 and 9, Finiel discloses an interface adjustment mechanism 4 comprising a frame member 1 securable to a boot 3 and at least one adjustment member (or cleat) 5 adjustably mounted on said frame member in an aft holding member 10, said adjustment member being extendable in a selected amount away from said frame member, said adjustment member having a threaded portion 8 for engagement with a driver tool and an engagement portion 5 made of an elastomeric material, as shown in figures 2A-4B.

With respect to claims 7-8, column 1, lines 34-35, recite the adjustment member can be applied to both the front and rear of the binding which would be a "plurality" of adjustment members and base members.

With respect to claims 10 and 11, Finiel discloses a frame member 1, at least one base member 5, and at least one spacer 8 for selectively adjusting the orthogonal position, as shown in figures 4A-4B.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-26, 28, 29, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deacon et al.(5,367,793).

Deacon et al. discloses a boot 1 comprising an upper 1 an outsole 2 with frame embedded (not numbered) with a plurality of threaded portions 3 for receiving a plurality of adjustment members (or interface adjustment mechanisms or cleats) each comprising a threaded portion 13 and an engagement portion 11, said engagement member having apertures 14,15 for receiving a driver tool, as shown in figures 1-6. Deacon et al. does not disclose the boot for use with a binding. The examiner takes official notice that the boot of Deacon et al. could easily be used with a snowboard soft

Art Unit: 3618

shoe binding and the cleats would inherently act as spacers between the boot and binding.

Allowable Subject Matter

6. Claims 30-34 and 36 are allowed.

Response to Arguments

7. Applicant's arguments with respect to claims 1-26, 28-29 and 35 have been considered but are moot in view of the new ground(s) of rejection.

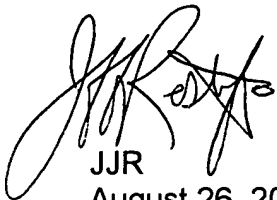
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

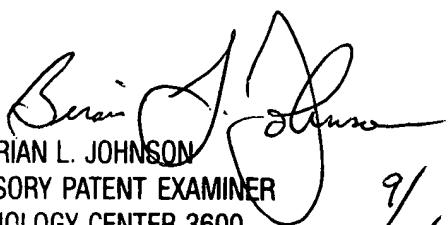
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Art Unit: 3618



JJR
August 26, 2002

Jeffrey J. Restifo
Examiner
Art Unit 3618



BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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